

Assembly Bill No. 1685

CHAPTER 304

An act to amend Sections 8538, 8564.5, 8593, and 8674 of the Business and Professions Code, relating to business.

[Approved by Governor September 9, 2014. Filed with Secretary of State September 9, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1685, Williams. Structural pest control operators: fees.

Existing law provides for the regulation of registered structural pest control companies by the Structural Pest Control Board. Existing law requires a registered structural pest control company to provide a specified written notice to the owner, or owner's agent, and the tenant of the premises where pest control work is to be done. Existing law authorizes the notice to be given by first-class mail, posting in a conspicuous place on the real property, or personal mail.

This bill would permit notice to be given by electronic mail, in addition to the currently authorized methods, if an electronic mail address has been provided.

Existing law authorizes an individual who is 18 years of age or older to apply for a license as an applicator. Existing law requires the board to ascertain the knowledge of the applicant to apply certain classes of chemicals by means of a written examination and authorizes the board to charge a fee for the examination in an amount sufficient to cover the reasonable cost of administering the exam, not to exceed \$15.

This bill would instead authorize the board to charge a fee in an amount sufficient to cover the reasonable regulatory cost of administering the examination, not to exceed \$60.

Existing law requires, as a condition of renewal of each operator's and field representative's license, that the holder submit proof of continuing education, as specified. Existing law authorizes the person, in lieu of that requirement, to take and successfully complete an examination given by the board to test his or her knowledge of development in the field of pest control since the issuance of his or her license. Existing law authorizes the board to charge a fee for the taking of an examination in each branch of pest control in an amount sufficient to cover the cost of administering the examination, but in no event to exceed \$50 for each examination.

This bill would authorize the board to charge a fee for administering an examination in each branch of pest control in an amount sufficient to cover the reasonable regulatory cost of administering the examination and would remove the \$50 fee limit.

Existing law provides a comprehensive scheme for the licensure and regulation of structural pest control operators which, among other things, sets forth a fee schedule for licensure and registration of those companies and their personnel who are engaged in structural pest control work.

This bill would increase specified fees paid by structural pest control operators.

The people of the State of California do enact as follows:

SECTION 1. Section 8538 of the Business and Professions Code is amended to read:

8538. (a) A registered structural pest control company shall provide the owner, or owner's agent, and tenant of the premises for which the work is to be done with clear written notice which contains the following statements and information using words with common and everyday meaning:

(1) The pest to be controlled.

(2) The pesticide or pesticides proposed to be used, and the active ingredient or ingredients.

(3) "State law requires that you be given the following information: CAUTION—PESTICIDES ARE TOXIC CHEMICALS. Structural Pest Control Companies are registered and regulated by the Structural Pest Control Board, and apply pesticides which are registered and approved for use by the California Department of Pesticide Regulation and the United States Environmental Protection Agency. Registration is granted when the state finds that, based on existing scientific evidence, there are no appreciable risks if proper use conditions are followed or that the risks are outweighed by the benefits. The degree of risk depends upon the degree of exposure, so exposure should be minimized.

"If within 24 hours following application you experience symptoms similar to common seasonal illness comparable to the flu, contact your physician or poison control center (telephone number) and your pest control company immediately." (This statement shall be modified to include any other symptoms of overexposure which are not typical of influenza.)

"For further information, contact any of the following: Your Pest Control Company (telephone number); for Health Questions—the County Health Department (telephone number); for Application Information—the County Agricultural Commissioner (telephone number), and for Regulatory Information—the Structural Pest Control Board (telephone number and address)."

(4) If a contract for periodic pest control has been executed, the frequency with which the treatment is to be done.

(b) In the case of Branch 1 applications, the notice prescribed by subdivision (a) shall be provided at least 48 hours prior to application unless fumigation follows inspection by less than 48 hours.

In the case of Branch 2 or Branch 3 registered company applications, the notice prescribed by subdivision (a) shall be provided no later than prior to application.

In either case, the notice shall be given to the owner, or owner's agent, and tenant, if there is a tenant, in at least one of the following ways:

(1) First-class or electronic mail, if an electronic mailing address has been provided.

(2) Posting in a conspicuous place on the real property.

(3) Personal delivery.

If the building is commercial or industrial, a notice shall be posted in a conspicuous place, unless the owner or owner's agent objects, in addition to any other notification required by this section.

The notice shall only be required to be provided at the time of the initial treatment if a contract for periodic service has been executed. If the pesticide to be used is changed, another notice shall be required to be provided in the manner previously set forth herein.

(c) Any person or licensee who, or registered company which, violates any provision of this section is guilty of a misdemeanor and is punishable as set forth in Section 8553.

SEC. 2. Section 8564.5 of the Business and Professions Code is amended to read:

8564.5. (a) Any individual 18 years of age or older may apply for a license as an applicator.

(b) The board shall ascertain by written examination that an applicant for a license as applicator in Branch 2 or Branch 3 has sufficient knowledge in pesticide equipment, pesticide mixing and formulation, pesticide application procedures and pesticide label directions.

(c) Passage of the written examination authorizes an individual to apply any chemical substance in Branch 2 or Branch 3.

(d) The board may charge a fee for any examination required by this section in an amount sufficient to cover the reasonable regulatory cost of administering the examination, but not to exceed the amount set forth in subdivision (k) of Section 8674.

(e) Nothing in this chapter shall prohibit an applicator, authorized to apply any chemical substance in Branch 2 or Branch 3 before January 1, 1995, from acting as an applicator pursuant to that authorization. Upon expiration of the authorization, an applicator's license shall be required.

SEC. 3. Section 8593 of the Business and Professions Code is amended to read:

8593. (a) The board shall require as a condition to the renewal of each operator's and field representative's license that the holder submit proof satisfactory to the board that he or she has informed himself or herself of developments in the field of pest control either by completion of courses of continuing education in pest control approved by the board or equivalent activity approved by the board. In lieu of submitting that proof, the licenseholder, if he or she so desires, may take and successfully complete an examination given by the board, designed to test his or her knowledge

of developments in the field of pest control since the issuance of his or her license.

(b) The board shall develop a correspondence course or courses with any educational institution or institutions as it deems appropriate. This course may be used to fulfill the requirements of this section. The institution may charge a reasonable fee for each course.

(c) The board may charge a fee for the taking of an examination in each branch of pest control pursuant to this section in an amount sufficient to cover the reasonable regulatory cost of administering each examination.

SEC. 4. Section 8674 of the Business and Professions Code is amended to read:

8674. The fees prescribed by this chapter are the following:

- (a) A duplicate license fee of not more than two dollars (\$2).
- (b) A fee for filing a change of name of a licensee of not more than two dollars (\$2).
- (c) An operator's examination fee of not more than one hundred dollars (\$100).
- (d) An operator's license fee of not more than one hundred fifty dollars (\$150).
- (e) An operator's license renewal fee of not more than one hundred fifty dollars (\$150).
- (f) A company registration fee of not more than one hundred twenty dollars (\$120).
- (g) A branch office registration fee of not more than sixty dollars (\$60).
- (h) A field representative's examination fee of not more than seventy-five dollars (\$75).
- (i) A field representative's license fee of not more than forty-five dollars (\$45).
- (j) A field representative's license renewal fee of not more than forty-five dollars (\$45).
- (k) An applicator's examination fee of not more than sixty dollars (\$60).
- (l) An applicator's license fee of not more than fifty dollars (\$50).
- (m) An applicator's license renewal fee of not more than fifty dollars (\$50).
- (n) An activity form fee, per property address, of not more than three dollars (\$3).
- (o) A fee for certifying a copy of an activity form of not more than three dollars (\$3).
- (p) A fee for filing a change of a registered company's name, principal office address, or branch office address, qualifying manager, or the names of a registered company's officers, or bond or insurance of not more than twenty-five dollars (\$25) for each change.
- (q) A fee for approval of continuing education providers of not more than fifty dollars (\$50).
- (r) A pesticide use report filing fee of not more than five dollars (\$5) for each pesticide use report or combination of use reports representing a

registered structural pest control company's total county pesticide use for the month.

(s) A fee for approval of continuing education courses of not more than twenty-five dollars (\$25).

(t) (1) Any person who pays a fee pursuant to subdivision (r) shall, in addition, pay a fee of two dollars (\$2) for each pesticide use stamp purchased from the board. Notwithstanding any other provision of law, the fee established pursuant to this subdivision shall be deposited with a bank or other depository approved by the Department of Finance and designated by the Research Advisory Panel or into the Structural Pest Control Research Fund that is hereby continued in existence and continuously appropriated to be used only for structural pest control research. If the Research Advisory Panel designates that the fees be deposited in an account other than the Structural Pest Control Research Fund, any moneys in the fund shall be transferred to the designated account.

(2) Prior to the deposit of any funds, the depository shall enter into an agreement with the Department of Consumer Affairs that includes, but is not limited to, all of the following requirements:

(A) The depository shall serve as custodian for the safekeeping of the funds.

(B) Funds deposited in the designated account shall be encumbered solely for the exclusive purpose of implementing and continuing the program for which they were collected.

(C) Funds deposited in the designated account shall be subject to an audit at least once every two years by an auditor selected by the Director of Consumer Affairs. A copy of the audit shall be provided to the director within 30 days of completion of the audit.

(D) The Department of Consumer Affairs shall be reimbursed for all expenses it incurs that are reasonably related to implementing and continuing the program for which the funds were collected in accordance with the agreement.

(E) A reserve in an amount sufficient to pay for costs arising from unanticipated occurrences associated with administration of the program shall be maintained in the designated account.

(3) A charge for administrative expenses of the board in an amount not to exceed 5 percent of the amount collected and deposited in the Structural Pest Control Research Fund may be assessed against the fund. The charge shall be limited to expenses directly related to the administration of the fund.

(4) The board shall, by regulation, establish a five-member research advisory panel, including, but not limited to, representatives from each of the following: (A) the Structural Pest Control Board, (B) the structural pest control industry, (C) the Department of Pesticide Regulation, and (D) the University of California. The panel, or other entity designated by the board, shall solicit on behalf of the board all requests for proposals and present to the panel all proposals that meet the criteria established by the panel. The panel shall review the proposals and recommend to the board which proposals to accept. The recommendations shall be accepted upon a

two-thirds vote of the board. The board shall direct the panel, or other entity designated by the board, to prepare and issue the research contracts and authorize the transfer of funds from the Structural Pest Control Research Fund to the applicants whose proposals were accepted by the board.

(5) A charge for requests for proposals, contracts, and monitoring of contracted research shall not exceed 5 percent of the research funds available each year and shall be paid from the Structural Pest Control Research Fund.